

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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DEBRA P. HACKETT, CL  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

ALBERT CARTER, JR.

VS.

CASE NO: 205-CV-0654-MEF

UNITED STATES OF AMERICA

NOTICE OF APPEAL

This cause is now before the Court, Notice of Appeal (DOC # 3112) filed on October 18, 2007.

The District Court ruling based on erroneous interpretation of law or clearly erroneous reading of evidence is abuse of discretion.

Rule 11, or for frivolous or malicious action, for abuse of discretion, 28 U.S.C.A. 1915 (d), Fed Rules of Civ. proc. Rule 11 (d), 28 U.S.C.A.

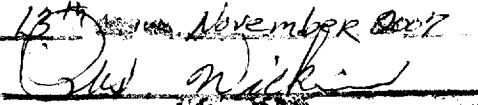
Watson V. Ault, 525 F. 2d at 892, and may " ascertain whether there is a factual basis for the petitioner's suit. " Id. at 891 (Citing Jone V. Bales), Cf. Wright V. Newsome, 795 f. 2d 964, 967 (11Cir. 1986) (error to dismiss complaint on Rule 12 (b)(6) ground before service). Williams V. Rhoden, 629 f.2d 1099, 1101 (5th Cir. 1980). This Civil right complaint adequately stated claim against court appointed attorney supported by record. Prosecutor mis-con-duct in that the prosecutor alter the charge, the warrant was illegally executed, felon possession of a firearm after being convicted of Solicitation of Murder

See Exhibit I Nathanson V. United States, 290 U.S. head note 1241, 78 L.ed 159, S.Ct 11 that an affidavit does not establish probable cause which merely states the affiant's belief there is cause to arrest. The judge should know the evidence on which the police propose to act, that the requirement. However, from a review of the sworn affidavit accompanying to complaint and the allegation in the indictment, the warrant was illegally executed, Nathanson V. United States, 290 U.S. head note 1241, 78 L. Ed 159, S. Ct. 11.

The standard for reviewing flaws in an indictment should not be confused with the standard for reviewing flaws in the grand jury proceeding which led to the indictment, U.S.DU BU 186 f. 3d 1177 (9th Cir. 1999); on the basis of facts presented to the grand jury by the prosecutor only... United States V. Du Bu 186ff. 3d (9th Cir. 1999). The court was without subjected matter or jurisdiction to except my guilty plea.

The appellant have been deprived of his substantive an procedural right by the district court to which the law entitles him.

  
Albert Carter Pro-Se

on 13<sup>th</sup> November 2007  
  
David Nickerson

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 13 day of November,  
2007 served a copy of the foregoing, upon the following, by placing a copy of the  
same in the U.S. mail, postage prepaid and properly addressed:

James B. Perrine  
P.O. Box 197  
Montgomery, Ala  
36101

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\_\_\_\_\_

Respectfully Submitted,

Albert Carter Jr  
1000 St Clair Rd  
Springville, Ala  
35146

Att. # 107266

1000 St. Clair Rd

Springville, Alabama

35146



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